

JULY 2002

WEST VIRGINIA INFORMATIONAL LETTER

NO. 119-B

TO: ALL INSURANCE COMPANIES LICENSED TO DO BUSINESS IN THE STATE OF WEST VIRGINIA

RE: ARBITRATION AND APPRAISAL PROVISIONS - HOMEOWNERS

The purpose of this informational letter is to replace Informational Letter 119-A. In review of W.Va. Code §33-17-2 and Informational letter 119-A, it appears that there is a conflict between the letter and W.Va. Code §33-17-2. To resolve any conflict between the two, we are issuing this letter.

Approvals for filings containing appraisal and arbitration clauses will only be granted for form filings in compliance with the statements contained herein. Accordingly, all insurers doing business in West Virginia with approved policies which contain either an appraisal provision or an arbitration provision, or both, which do not comply with the statements below must resubmit a filing to the Rates and Forms Division by September 1, 2002 for review. Please state in the cover letter that pursuant to Informational Letter 119-B the filing fee is waived.

Any filings which have been previously approved which do not comply with the statements contained herein are hereby disapproved pursuant to W.Va. Code §33-6-9(a) effective November 1, 2002. If you have any questions, please direct them to the Property & Casualty analysts of the Rates and Forms Division (304) 558-2094.

Personal or Commercial Fire Only Policies

- It is mandatory that insurers include an appraisal provision in fire only policies and that language must be the language set forth in the standard fire policy, as required by W.Va. Code §33-17-2. Such language is set forth below.
- Arbitration provisions are optional. But, if the insurer chooses to include an *arbitration* provision, the language must be the language set forth below.

Personal or Commercial Multi-line Policies which include fire coverage

- It is mandatory that insurers include an *appraisal* provision in multi-line policies which include fire coverage and that language may be either the language set forth in the standard fire policy, or language at least as favorable, as required by W.Va. Code §33-17-2. Such language is set forth below.
- Arbitration provisions are optional. But, if the insurer chooses to include an *arbitration* provision, the language must be the language set forth below.

Any other Personal or Commercial Property & Casualty Policy

- It is optional for insurers to include *appraisal* provisions in any other policies but if an insurer chooses to include such a provision, the language may be either the language set forth in the standard fire policy, or language at least as favorable, as required by W.Va. Code §33-17-2.
- Arbitration provisions are optional. But, if the insurer chooses to include an *arbitration* provision, the language must be the language set forth below.

Appraisal language in the Standard Fire Policy

In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then on request of the insured or this company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

If an insurer chooses to include arbitration provisions in personal or commercial property & casualty West Virginia insurance contracts, the language must be the following language:

Arbitration

If we [the company] and you [the insured] do not agree whether coverage is provided under this policy of insurance for a claim made by or against the insured, both parties may, by mutual consent, agree in writing to arbitration of the disagreement.

If both parties agree to arbitrate, each party will select an arbitrator. The two arbitrators will select a third arbitrator. If they cannot agree upon the selection of a third arbitrator within 30 days, both parties must request that selection of a third arbitrator be made by a judge of a court having jurisdiction.

Unless both parties agree otherwise, arbitration will take place in the county in which the address shown in the declarations is located. Local rules of law as to procedure and evidence will apply.

A decision agreed to by any two will be binding.

Payment of the arbitrator's fee shall be made by us if coverage is found to exist. If coverage is not found, each party will:

- (a) pay its chosen arbitrator; and
- (b) bear the other expenses of the third arbitrator equally

If you have any questions regarding the contents of this Informational Letter, you may contact Mia Rowe, Director of Rates and Forms Division at (304) 558-2094, ext 130.

s:// Jane L. Cline
INSURANCE COMMISSIONER